

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
BOARD OF SAFETY AWARENESS**

Thursday, August 16, 2012

8:30 A.M.

In attendance: Robin Coia

Wayne Coulombe

Nicholas Giardino

James Jackson

Bernard Trembl

**Also in attendance: Mark Ryan; Prevailing Wage Investigator;
Benjamin Copple, Legal Counsel; and Valentino Lombardi**

**Eric Anderson, Timothy Byrne, Edgar Ladouceur and Joseph Sabitoni
(Chair) were not in attendance.**

**1. CALL TO ORDER: Meeting was called to order at 8:42am by
Bernard Trembl. A quorum was present. There is a quorum.**

**2. REVIEW & APPROVE MEETING MINUTES: Regarding the minutes
of the March 15, 2012 meeting; Nicholas Giardino made a motion to
accept the minutes; seconded by Wayne Coulombe and passed**

unanimously by the Board.

3. REVIEW OF MARCH APPEAL DECISIONS: All were upheld.

4. HEARINGS: ** Conducted out of order.

1.) All Phase Restoration, LLC (Violation 4263): Ronnie Ramos, All Phase Restoration; Michael Fasulo; and Mark Ryan, Prevailing Wage Investigator, are sworn in by Valentino Lombardi. Benjamin Copple, Legal Counsel, arrives and Valentino Lombardi leaves. Mark Ryan reads the violation.

On April 11 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the Smithfield Ice Rink project and interviewed Michael Fasulo of All Phase Restoration, LLC. This individual was working on the project without an OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 "Safety Awareness Program Required."

A copy of the contract was acquired from the Town of Smithfield. The prime contractor for the project was Eagle Rivet Roof Service Corporation. The total value of the contract was \$532,215.00.

Ronnie Ramos, All Phase Restoration, LLC, provides testimony.

A copy of Michael Fasulo's OSHA-10 card is entered as Exhibit A. A copy of the contract from the Town of Smithfield is entered as Exhibit B.

Wayne Coulombe made a motion that Michael Fasulo did not have an OSHA-10 card and could not produce a facsimile; there was no OSHA-10 hour card covering the employee; Violation 4263 did occur; seconded by James Jackson and passed unanimously by the Board.

Wayne Coulombe made a motion that the fine stands; seconded by James Jackson and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

2.) Michael Fasulo, All Phase Restoration, LLC (Violation 4264): Michael Fasulo and Mark Ryan were previously sworn in for testimony. Mark Ryan reads the violation.

On April 11 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the Smithfield Ice Rink project and interviewed Michael Fasulo of All Phase Restoration, LLC. This individual was working on the project without an OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 "Safety Awareness Program Required."

Violation 4264 was issued on June 13, 2012.

A copy of the contract was acquired from the Town of Smithfield. The total value of the contract was \$532,515.00.

Michael Fasulo provides testimony. The board questions Mr. Fasulo. Ronnie Ramos also provides testimony.

Nicholas Giardino made a motion that the violation did occur; seconded by Wayne Coulombe and passed unanimously by the Board.

Nicholas Giardino made a motion that the fine be upheld; seconded by Robin Coia and passed unanimously by the Board.

Exhibits A, B, and C are entered. Exhibit A: a copy of Michael Fasulo's current OSHA 10 card; Exhibit B: A copy of the contract from the Town of Smithfield; and Exhibit C: Michael Fasulo's OSHA 10 completion certificate dated 4/13/12

The recommendation will be forwarded to the Director.

3.) Eagle Rivet Roof Service Corporation (Violation 4265): Eagle Rivet Roof Service Corporation did not appear. Mark Ryan reads the violation.

On April 11 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the Smithfield Ice Rink project and interviewed Michael Fasulo of All Phase Restoration, LLC. This individual was working on the project without an OSHA-10 Hour certification. This is a violation of

RIGL 37-23-1 “Safety Awareness Program Required.”

Violation 4265 was issued to Eagle Rivet Roof Service Corporation on June 13, 2012.

The value of the contract was \$532,515.00 verified by the Town of Smithfield.

Sean Nolan is sworn in for testimony. Benjamin Copple questions Mr. Nolan regarding notice of today’s hearing. Notice was sent both certified mail and regular mail on July 16, 2012. The notice sent to Eagle Rivet Roof Service Corporation is marked Exhibit A. A copy of the USPS tracking confirming delivery is marked Exhibit B. Regular mail was not returned.

Nicholas Giardino made a motion that Eagle Rivet Roof Service Corporation was properly notice of today’s hearing; seconded by Wayne Coulombe and passed unanimously by the Board. The hearing continues.

Nicholas Giardino made a motion that a violation did in fact occur; seconded by Robin Coia and passed unanimously by the Board.

Nicholas Giardino made a motion that the fine of \$500.00 be upheld; seconded by Wayne Coulombe and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

4.) Ademirto Nascimento, MP Masonry (Violation 4174): Ademirto Nascimento did not appear. Mark Ryan read the violation.

On November 1, 2011, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the above mentioned public works job site, which is the Rhode Island College Recreation Building, and interviewed Ademirto Nascimento of MP Masonry, Inc. This individual was working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required".

Violation 4174 was issued to Mr. Nascimento on January 10, 2012. Fine \$250.00.

The notice of today's hearing sent to Ademirto Nascimento is marked Exhibit A. Benjamin Copple questions Sean Nolan regarding notice of today's hearing. Notice was sent July 16, 2012 by both certified mail and regular mail. Receipt of the delivery confirmation from the USPS is marked Exhibit B. Regular mail was not returned. Exhibits A & B are entered into the administrative record.

Nicholas Giardino made a motion that Ademirto Nascimento was properly notice of today's hearing; seconded by Robin Coia and

passed unanimously by the Board. The hearing continues.

James Jackson made a motion that the violation did occur; seconded by Nicholas Giardino and passed unanimously by the Board.

Nicholas Giardino made a motion that the fine of \$250.00 be upheld; seconded by Wayne Coulombe and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

5.) Adriano Ronaldo, MP Masonry (Violation 4176): Adriano Ronaldo did not appear. Mark Ryan read the violation.

On November 1, 2011, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the Rhode Island College Recreation Building, and interviewed Adriano Ronaldo of MP Masonry, Inc. This individual was working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required".

Violation 4176 was issued to Mr. Ronaldo on January 10, 2012. Fine \$250.00

The notification of today's hearing to Mr. Ronaldo is marked Exhibit A. Benjamin Copple questions Sean Nolan (previously sworn in)

regarding notice of today's hearing. Notice was sent to Mr. Ronaldo July 16, 2012 by both certified mail and regular mail. Receipt of the delivery confirmation to Mr. Ronaldo from the USPS is marked Exhibit B. Regular mail was not returned. Mark Ryan had no knowledge of the regular mail being returned. Exhibits A & B are entered into the administrative record.

Wayne Coulombe made a motion that proper notice of today's hearing was given; seconded by James Jackson and passed unanimously by the Board. The hearing continues.

Robin Coia made a motion, based on the evidence presented, that the violation issued be upheld; seconded by Wayne Coulombe and passed unanimously by the Board.

Nicholas Giardino made a motion that the \$250.00 fine be upheld; seconded by Wayne Coulombe and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

6.) Jucemar Batista , MP Masonry (Violation 4173): Jucemar Batista did not appear. Mark Ryan read the violation.

On November 1, 2011, Mr. Mark T. Ryan, Prevailing Wage Investigator,

visited the Rhode Island College Recreation Building, and interviewed Jucemar Batista of MP Masonry, Inc. This individual was working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required".

On January 10, 2012 Violation 4173 was issued to Mr. Batista. Fine \$250.00

Benjamin Copple questions Sean Nolan (previously sworn in) regarding notice of today's hearing. The notification of today's hearing dated July 16, 2012 to Mr. Batista is marked Exhibit A. Notice was sent to Mr. Batista by both certified mail and regular mail. Receipt of the delivery confirmation of the certified mail to Mr. Batista from the USPS is marked Exhibit B. Regular mail was not returned. Mark Ryan had no knowledge of the regular mail being returned. Exhibits A & B are entered into the administrative record.

Wayne Coulombe made a motion that Jucemar Batista was notified of today's hearing; seconded by Nicholas Giardino and passed unanimously by the Board. The hearing continues.

Robin Coia made a motion, based on the evidence presented, that the violation be upheld; seconded by James Jackson and passed unanimously by the Board.

James Jackson made a motion to uphold the \$250.00 fine; seconded

by Wayne Coulombe and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

7.) Veslei Paula, MP Masonry (Violation 4175): Veslei Paula did not appear. Mark Ryan read the violation

On November 1, 2011, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the Rhode Island College Recreation Building, and interviewed Veslei Paula of MP Masonry, Inc. This individual was working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 “Safety awareness program required”.

On January 10, 2012 Violation 4173 was issued to Mr. Veslei. Fine \$250.00

The July 16, 2012 notice to the respondent is marked Exhibit A. Benjamin Copple questions Sean Nolan (previously sworn in) regarding notice of today’s hearing. Notice was sent to the respondent July 16, 2012 by both certified mail and regular mail. Receipt of the delivery confirmation of the certified mail to the respondent from the USPS is marked Exhibit B. Regular mail was not returned. Mark Ryan had no knowledge of the regular mail being returned. Exhibits A & B are entered into the administrative record.

Wayne Coulombe made a motion that Mr. Paula was notified based on the receipts of mail; seconded by James Jackson and passed unanimously by the Board. The hearing continues.

Robin Coia, based on the evidence presented, made a motion that the violation be upheld; seconded by Wayne Coulombe and passed unanimously by the Board.

Nicholas Giardino made a motion to uphold the \$250.00 fine; seconded by Robin Coia and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

End of hearings.

5. DEPARTMENT BOARD TRAINING – LEGAL WILL ADDRESS THE BOARD CONCERNING THE UPCOMING BOARD TRAINING ON SEPTEMBER 24, 2012 FROM 8:30 TO 12:00.: Benjamin Copple, Legal Counsel, addressed the Board regarding the upcoming training. All board members are encouraged to attend. Topics include Administrative Law, Robert's Rules of Order and Ethics. Bernard Trembl will not be able to attend.

****Mark Ryan asked the board members to let him know if there is a better day and time they would like the board meeting held.**

6. ADJOURNMENT: Nicholas Giardino made a motion to adjourn; seconded by Wayne Coulombe and passed unanimously by the Board. The meeting adjourned at 9:25am.

The next meeting is scheduled for Thursday, September 20, 2012 at 8:30 am.